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CNH America LLC  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
700 State Street  
Racine, WI 53404

In re Application of	:	<b>DECISION ON PETITION</b>
Robert A. Matousek et al.	:	<b>TO WITHDRAW THE</b>
Application No. 10/621,835	:	<b>HOLDING OF</b>
Filed: July 16, 2003	:	<b>ABANDONMENT</b>

For: GRAIN HARVESTING MULTI-ANGULAR INCLINED DELIVERY  
CONVEYOR AND DRIVE

This is a decision on applicant's Petition to Withdraw the Holding of  
Abandonment under 37 CFR 1.181 filed in the United States Patent and  
Trademark Office on March 7, 2005.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for  
failure to timely file a response to the Office action mailed July 20, 2004, which  
set a three-month shortened statutory period. No response was received and a  
Notice of Abandonment was mailed on March 1, 2005.

Petitioner contends that a response was filed on October 20, 2004. In support  
thereof, petitioner submits, a copy of a response bearing a Certificate of Mailing  
signed by Stephen R. Matthews and dated October 20, 2004 and a copy of the  
postcard receipt bearing USPTO stamp dated October 26, 2004.

It is noted that the Application number on the amendment and post card receipt  
is 10/621,815 instead of 10/621,835. Furthermore, the receipt date of October  
26, 2004 on the postcard is beyond the date the response was due.

Petitioner's evidence of a timely filing based on a Certificate of Mailing is  
considered to be insufficient. In this regard, any petition to withdraw the holding  
of abandonment based upon a Certificate of Mailing must include the following  
requirements:

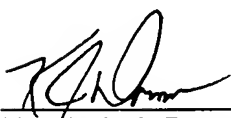
(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by Certificate of Mailing on the date indicated on the certificate, by the person who signed the certificate, in this instance Stephen R. Matthews.

Petitioner's evidence of a timely filing based on the postcard receipt is considered to be insufficient. In this regard, the date stamped on the post card receipt is October 26, 2004. Applicant's response was due October 20, 2004.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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KJD/bkg: 1/11/2006